PRESERVED

App. F. IX-4

1939.
(Courts)

File No. 35/39
Serial Nos. 124.

Previous References
C5/164-37 (1-2)

Later References.
35-39 (5).

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Four only.

PRESERVED

Part B for October 1939.

SUBJECT.

Reciprocal arrangements for the service of processes between Johore, a State in the unfederated Malay States and Singapore.

(14) To The Secretary to the Hon'ble the Resident

No. pol 499 of 3.10.39.

WD 0573—GPB—22,500—12-9-39

States that the Singapore Govt. have no objection to enter into reciprocal arrangements for service of civil process with Johore State.

Mirza Nazeer Hussain
11/10/39.

Serial No.

From

The Secretary to the Hon'ble the Resident

R dis No F 430-39, Dated 24. 7. 1939.

Enquires whether the Govt of Mysore are willing to enter into reciprocal arrangements for Service of processes with Johore, a State in the Straits Settlements.

Under the Chief Commissioner's Notn 112 Dy 23.7.1878 all Civil processes issued by Courts of British India are required to be acted upon and executed by all Courts in Mysore.

Processes issued by Mysore Courts are also executable in Hyderabad State on payment of fees.

In the present instance, the Residency ~~request~~ Enquire whether Mysore Govt are willing to enter into reciprocal Arrangements for Service of processes with Johore State (Malay States).

Pls Collection 166-37-42 relating to the Service of Summonses and execution of decrees between India and Burma is placed below for reference. It can be seen from the last Sentence of Residency letter Dy 16.3.38

Flag 2

NOTE—Contn. Sheet

2) Service of processes between Johore and Mysore States

CS File No. 35 478 P of 19 39 | General and Revenue Secretariat.

Serial No.

That the Govt of Burma will not execute decrees or Service Summonses issued by Courts in Indian States and Administered areas.

Submit for orders

CAM 3/8

3) The High Court may perhaps be consulted in the first instance.

BKR 5.8.39

Law Secy)

SECY. LAW DEPT. 818 5 AUG. 1939 GOVT OF MYSORE

4) Please put up the arrangement with Hyderabad.

5/8/39

BKR 7.8.39

Submit

5) The original file relating to the service of processes in Hyderabad State could not be traced. Kind reference is invited to para 407 page 120 of Civil Rules of Practice Vol I on the subject.

CAM 4/8

BKR 22.8.39

6) Law Secy.

SECY. LAW DEPT. 1190 GOVT OF MYSORE

7) We may enter into reciprocal

Reciprocal arrangements for the Service of Processes between Johore State (Malay State)

General and Revenue Secretariat. C/S File No. 35 of 1939. [App. F. III-2

Serial No.

arrangements with Johore for service of civil processes. This is not likely to lead to any complications. The number of cases also will be very few.

1st Member

Ce.
23/8/39

BXR
23.8.39

1 The H.C. may be consulted

RLW
24/8/39

Cm/28

BXR
24.8

Submit with a draft

CAM
26/8
DORE

Sec

BXR
26.8

2

3 The Registrar High Court

P 1331 Dt 2-9-39

Calls for the Opinion of the High Court in respect of the proposed reciprocal arrangement for service of processes between Johore State

From

3 The Registrar High Court

C. Dis 98 39-40 Dt 22-9-39

States that the High Court can have no objection to the proposal if the Govt are agreeable.

Submit with reference to para 10 of the notes. A draft is also put up.

Law Secy

BXR
25.9.39

CAM
25/9
DORE

OFFICE OF THE FIRST MEMBER OF COUNCIL
AUG 23 1939
No. 1294

TYPIST SEC
... 1939
GEN. & REV. SECTT.

SECY. LAW DEPT. 2181 26 SEP. 1939 MYSORE

No. 20 Contn. Sheet.

4) Reciprocal arrangements for service of processes between Johore State (Malay States) and Mysore 2062/P

Sec. File No. of 1939 General and Revenue Secretariat.

Serial No.

OFFICE OF THE FIRST MEMBER OF COUNCIL
SEP 28 1939
No. 2947

12) The High Court has no objection. My brief appended
1st Member
CE 27/9
BKR 28.9.39

16) Secy 29/9/39 Legal
BKR 29.9

17) Submit for orders as to whether the draft letter in the file may issue
1st Secy BKR 29.9.39

Cipher 29/9 Secy

To

The Secretary to the Hon'ble the Resident

No Pol 499 d 3.10.39

States that the govt have no objection to enter into reciprocal arrangements for service of civil processes with Johore State.

Pol 140

Encls 4.

The reply to this communication should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

478/P

R. Dis. No. F. 430-39 Judl.

cs 35-39-1

FROM

THE SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore, Bangalore.

Recd 24/7

Dated Bangalore, the 21st July *1939.*

Proposed reciprocal arrangements for the service of processes between Johore, a State in the Unfederated Malay States and Indian States.

SIR,

I am directed to forward a copy of the papers noted in the margin.

1. Letter from the Secretary to the High Commissioner for the Malay States, No.(24) in H.C.O.1407/1937, dated the 23rd March 1939, and enclosures.
2. Letter to the Secretary to the High Commissioner for the Malay States, No.12/8/39-Judl., dated the 29th May 1939.
3. Letter from the Government of India in the Home Department to all Provincial Governments and Administrations No.12/8/39-Judl., dated the 29th May 1939.

Please state whether the Government of Mysore are willing to enter into reciprocal arrangements for service of processes with Johore, a State in the Unfederated Malay States.

I have the honour to be,
Sir,
Your most obedient servant,

for SECRETARY TO THE RESIDENT.

Copy of a letter No. (24) in H.C.O. 1407/1937, dated 23rd March 1939, from the Secretary to the High Commissioner for Malay States, to the Government of India, Home Department.

I am directed to refer to my letter No.5 in this series dated the 5th January, 1938, a copy of which is enclosed, and to ask for the favour of a reply.

No. 5 in H.C.O. 1407/1937. 5th January, 1938.

Sir,

With reference to your letter No. F. 12/21/37 Judicial, dated the 8th November, 1937, addressed to the General Adviser, Johore, on the subject of the service of a civil summons issued by the Magistrate at Kluang Johore, I am directed to inform you that the Government of Johore will be grateful if arrangements can be made for the service by the Courts in British India and in any Indian State under the protection of His Britannic Majesty (including the State of Pudukkottai) of civil process issued by the Courts in Johore. The Johore Government will be pleased to observe whatever formalities are laid down, but it is hoped that it may be possible to arrange for requests for service to be dealt with between the Courts direct without reference to the Executive Government. The Johore Government will similarly arrange for the service by Johore Courts of process from India.

2. Section 86 of the Civil Procedure Code enables Johore to send her process to the Indian Courts and Section 593(b) enables Johore to serve process from India if action is taken to gazette India..

India under the section. Copies of these sections are enclosed for information.

I am,

Sir,

Your obedient servant,

Sd. R. Irvine,

Ag. Secretary to the High Commissioner for the Malay States.

The Under Secretary to the Government of India,
Home Department (Judicial),
New Delhi, India.

CIVIL PROCEDURE CODE.

85. Where the defendant does not reside in Johore or in the Colony and has no agent in Johore empowered to accept service the summons shall be addressed to the defendant at the place where he is residing and forwarded to him by registered post, if the defendant's address be known and if there be no postal communication between such place and the place where the Court is situated.

86. Where the defendant is believed to be resident within the jurisdiction of any Court in Ceylon or in British India or in any Indian State under the protection of His Britannic Majesty, the summons may be sent to such Court by post or otherwise for the purpose of being served on the defendant, and if such Court returns the summons with an endorsement signed by the Judge or other Officer of such Court that the summons has been duly served on the defendant, such endorsement shall be deemed to be evidence of service.

593. Processes issued.
(a) by any Civil Court in the Colony,
(b) by any Court in British India or in any Indian State under His Britannic Majesty's protection or in

Ceylon

Ceylon or in any Malay State under British Protection to which the State Secretary, by notification in the Gazette, extends the operation of this section,

.f sent to the Courts in Johore may be served as if they had been .ssued by such Courts.

Copy of a letter No. 12/8/39-Judl., dated Simla, the 29th May 1939, from the Under Secretary to the Government of India in the Home Department, to the Secretary to the High Commissioner for the Malay States, Singapore.

Subject:- Proposed reciprocal arrangements for the service of processes between Johore and British India.

With reference to your letter No. (24) in H.C.O. 1407/1937, dated the 23rd March 1939, on the subject noted above, I am directed to say that your letter No.5 in H.C.O. 1407/1937, dated the 5th January 1938, does not appear to have been received by the Government of India. They have however now considered the matter and I am to reply as follows:-

2. In order to make arrangements for the service by courts in British India of civil processes issued by courts in Johore, it will be necessary to apply the provisions of section 29 of the Code of Civil Procedure, 1908 (Act V of 1908),(copy enclosed), to the courts in each Province in regard to the service by the courts in that Province of summonses issued by the civil courts in Johore. You will however observe that the power to apply these provisions is now vested in the Provincial Governments. The Government of India are therefore communicating your letter to the Provincial Governments for such action as they consider desirable. In order, however, to render valid the service by civil courts in Johore of summonses issued by the courts in British India the Provincial Governments will also have to make the necessary declaration under clause (b) of rule 26 of Order V of the First Schedule to the said Code (copy enclosed).

In ..

In order, to facilitate the establishment of reciprocal arrangements in this matter I am to suggest that steps may first be taken for the extension of the provisions of section 593(b) of the Johore Code of Civil Procedure to civil courts in British India and to request that a copy of the notification issued by the State Secretary in this behalf may be forwarded to the Government of India for transmission to the Provincial Governments.

3. As regards your proposal that requests for service be dealt with direct between the courts concerned without reference to executive Governments, I am to say that the Government of India see no objection to the course proposed but the Provincial Governments will intimate in due course whether they agree to this course.

4. As regards the making of arrangements for the service of processes between Johore and Indian States I am to say that the matter concerns the Secretary to His Excellency the Crown Representative. A copy of the correspondence is being supplied to him and he is being asked to communicate with you direct should he desire to make the proposed arrangements in respect of the Indian States.

No. 12/8/39-Judl.
GOVERNMENT OF INDIA.
HOME DEPARTMENT.

From

J. G. Simms, Esquire, I.C.S.,
Under Secretary to the Government of India,

To

The Secretary to the Government of Madras, Home Department.
" " " Bombay, Home Department.
The Secretary to the Government of Bengal,
Judicial & Legislative Department.
The Secretary to the Government of the United Provinces,
Judicial Department.
The Home Secretary to the Government of the Punjab.
The Secretary to the Government of Bihar,
Judicial Department.
The Secretary to the Government of the Central
Provinces & Berar, Judicial Department.
The Chief Secretary to the Government of Assam.
The Secretary to the Government of the North-West
Frontier Province, Home Department.
The Secretary to the Government of Orissa,
Law and Commerce Department.
The Chief Secretary to the Government of Sind.
The Chief Commissioner of Coorg.
The Chief Commissioner of Delhi.
The Honourable the Chief Commissioner of Ajmer-Merwara.
The Chief Commissioner of Panth Piploda.
The Honourable the Agent to the Governor-General, Resident
and Chief Commissioner in Baluchistan.

Simla, the 29th May, 1939.

Subject :- Proposed reciprocal arrangements for the service of summonses between Johore, a State in the Unfederated Malay States and British India.

Sir,

I am directed to forward for information and such action as the Provincial Government may consider desirable a copy of the papers noted below, on the subject noted above:-

*To Chief Commrs. only.

*y o u

1. Letter from the Secretary to the High Commissioner for the Malay States, No. (24) in H.C.O. 1407/1937, dated the 23rd March 1939, and its enclosures.
2. Letter to the Secretary to the High Commissioner for the Malay States, No.12/8/39-Judl., dated the 29th May 1939.

2. The ..

2. The Provincial Government (*You) will no doubt intimate in due course whether they (*you) agree to the course of action proposed in paragraph 3 of the Home Department letter to the High Commissioner for the Malay States, No. 12/8/39-Judl., dated the 29th May 1939.

I have the honour to be,

Sir,

Your most obedient servant,

Sd. J. G. Simms,

Under Secretary to the Government of India.

No. P1331 CS 35-39-2 & 219/39
Encl 3

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

To

The Registrar
High Court

Sir,

I am directed ~~to~~ forward herewith a Copy each of the letters cited in the margin relating to the proposed Reciprocal Arrangements for the Service of processes between Johore a State in the Unfederated Malay States, and the Indian States and to request that Govt may be favoured with the Opinion of the High Court [as in the matter] to whether there is any Objection to the Govt of Mysore entering into Reciprocal Arrangements for Service of processes with

(1) Letter from the Secy to the High Court for the Malay States, No (24) in H.C.O. (60)/1937, dt 23.3.1939 and enclosures

(2) Letter no 12/8/39 Judl dt 29.5.39 to the Secy to the High Court for the Malay States.

(3) Letter No 12/8/39/Judl dt 29.5.39 from the Govt of India in the Home Dept to all provincial Govts and Administrations.

WD 0565—GPB—22,500—8-11-38

10

Johore (a State in Unfederated Malay States)

The enclosures forwarded herewith may kindly be returned along with Your reply.

I have etc

for Secy to Govt

Law Dept

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P1331 Cs-35-39-2 Dated, Bangalore, 21/9/39
Lec 3.

From

The Secretary to the Government of His Highness the Maharaja of Mysore,
Law Department.

To

The Registrar,

High Court of Mysore, B A N G A L O R E.

Sir,

I am directed to forward herewith a copy each of the letters cited in the margin relating to the proposed reciprocal arrangements for the service of processes between Johore, a State in the Unfederated Malay States, and the Indian States and to request that Government may be favoured with the opinion of the High Court in the matter.

1. Letter from the Secretary to the High Commissioner for the Malay States, No.(24) in H.C.C.1407/1937, dated 23rd March 1939 and enclosures.
2. Letter No.12/8/39 Judl. dated 29th May 1939 to the Secretary to the High Commissioner for the Malay States.
3. Letter No.12/8/39Judl. dated 29th May 1939 from the Government of India in the Home Department to all Provincial Governments and Administrations.

The enclosures forwarded herewith may kindly be returned along with your reply.

I have the honour to be,

Sir,

Your most obedient servant,

BKR

For Secretary to Government,
Law Department.
CR

MK.

2042/P Cts 35-39-3 12

H. Admin. (F) No. 5.

R.O.C. No. A1 Dis. 98/39-40
Dis. Encls

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,
Bangalore, 21st September *1939.*

22

SECY. LAW DEPT. 22 SEP. 1939 GOVT OF MYSORE

GEN. & REV. SECRETARIAT. 25. SEP. 1939 PROTECTION BRANCH.

From

T. SHAMIENGAR, Esq., B.A., B.L.,
Registrar, High Court of Mysore.

To

C. Subrahmanya Aiyar, Esq., B.A., B.L.,
Secretary to Government,
Law Department, Bangalore.

SIR,

With reference to your letter No.P.1331/Cts.35-39-2, dated 2-9-39, forwarding a copy of each of the letters shown in the margin relating to the proposed reciprocal arrangements for the service of

1. Letter from the Secretary to the High Commissioner for the Malay States, No.24 in H.C.O.1407/1937, dated 23rd March 1939 and enclosures.
2. Letter No.12-8-39 Judicial dated 29th May 1939 to the Secretary to the High Commissioner for the Malay States.
3. Letter No.12-8-39 Judicial dated 29th May 1939 from the Government of India in the Home Department to all Provincial Governments and Administrations.

) processes between Johore, a State in the Unfederated Malay States

and the Indian States, and requesting the opinion of the High Court in the matter, I am directed to state that the High Court is of opinion that there does not exist any objection to agree to reciprocity in the matter and that if the Government are agreeable, the High Court can have no objection.

The copies of the letters received with the above are herewith returned.

I have the honour to be,

Sir,

Your most obedient servant,

T. Shamiengar
Registrar.

Appendix F G—1]

SUBJECT... .....

.....

.....

Section C5

File No. 35-39

Serial No. 4

Diary No. of letter replied to.. .....

No. Col 499

To

The Secretary to the
Hon'ble the Resident.

General and Revenue Secretariat

( )

the *193* .

Date of issue 3-10-39

Signed by Mr. B.K.R.

Subject:- Reciprocal arrangements for the service of processes between Johore, a State in the Unfederated Malay States and Mysore

Sir

With reference to Your letter No R Dis 7 430-39/Judl dt 21-9-1939 on the above subject, I am directed to state that the Govt of Mysore

List of enclosures.... ....

Copied by .....

Examined by.....

14

Have no objection to enter into reciprocal arrangements for service of ~~Civil~~ processes with Johore State. — Subject to their approval

I have etc

JBKR/25918 Secy to Govt
Law Dept.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Bangalore, Dated, 2nd October 1939.
3rd

No. Col 499

From

The *Secretary to the Government of His Highness the Maharaja of Mysore.*
Law Department.

To

The Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

Sir,

SUBJECT: Reciprocal arrangements for the service of processes between Johore, a State in the unfederated Malay States and Mysore.

With reference to your letter No.R.Dis.F.430-39/Judl. dated 21st July 1939 on the above subject, I am directed to state that the Government of Mysore have no objection to enter into reciprocal arrangements for service of civil processes with Johore State.

I have the honor to be,
Sir,
Your most obedient servant,

for Secretary to Government,
Law Department.

SR/2